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Docket No. MCRVT-001BC

REMARKS/ARGUMENTS

The foregoing amendment and the remarks which follow are responsive to the office action dated March 13, 2006.

Response to Election/Restriction

In the Office Action new claims 54-57 were withdrawn from consideration as being drawn to a non-elected invention. The Examiner stated two (2) reasons in support of the withdrawal of Claims 54-57, namely that 1) "the device could be used in a lumen of the body different from the vasculature" and/or 2) "the filter could remain in one position when expanded and rely on fluid to transfer the embolus into the removal apparatus."

In view of the withdrawal of claims 54-57, Applicant has cancelled claims 54-57 and has presented new claims 58-61. New claims 58-61 recite a method that *could* be performed in a lumen of the body different from the vasculature and wherein the obstructive matter capturing receptacle *could* remain in one position when expanded and rely on fluid to transfer the obstructive matter into the removal apparatus. Thus, new claims 58-61 are not subject to restriction based on election by presentation, or for any other reason. Examination and allowance of new claims 54-57 is respectfully requested.

Rejections Under 35 U.S.C. §103(a)

In the office action, claims 33, 47 and 51-57 were rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 5,911,734 (Tsugita, et al.) in view of United States Patent No. 5,167,239 (Cohen, et al.) and claim 34 was deemed to be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims.

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By the present amendment, Applicant's independent claim 33 has been amended to require that the guidewire be longitudinally moveable relative to the embolus removal apparatus. This is in stark contrast to the devices of Tsugita et al. where the matter capturing receptacle is rigidly affixed to a shaft (e.g., a guidewire) such that the shaft is not longitudinally moveable relative to the matter capturing receptacle.

Furthermore, Tsugita, et al. contains nothing which would motivate anyone to advance such device over a guidewire of the type disclosed by Cohen et al. (or any other guidewire). In fact, the Tsugita et al. device is devoid of any lumen that could be used for the purpose of advancing that device over a guidewire. Rather, the Tsugita et al. device is itself passed through the lumen of a catheter in place of or in the manner of a guidewire.

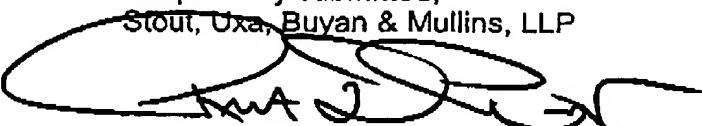
Accordingly, claims 33, 34, 47 and 51-53 are now in condition for allowance over Tsugita et al., Cohen et al. and all other prior art of record. Reconsideration and issuance of a notice of allowance is earnestly solicited.

Applicant is no longer entitled to small entity status. A revocation of the prior small entity status claim has been or will be filed under separate cover.

A three (3) month extension of time is hereby requested under 37 C.F.R. 1.136. The Commissioner is authorized to deduct a large entity fee for this extension of time as well as any other fees properly deemed to be due from Deposit Account No. 50-0878.

Respectfully submitted,
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